

REMARKS

Claims 1-7, 9-16, 18-27, 29-44, 46 and 47 are pending in the present application.

This Amendment is in response to the Office Action mailed October 24, 2008. In the Office Action, the Examiner rejected claims 1-11 and 21-47 under 35 U.S.C. §112, second paragraph and claims 1-7, 9-16, 18-27, 31, 39-44, and 46-47 under 35 U.S.C. §103(a). Applicant respectfully submit that claims 23, 28, 32-38 and 45 have been previously cancelled, and thus, the Examiner is mistaken in his §112 second paragraph rejection. Herein, we shall consider that the §112 rejection applies to claims 1-11 and 21-22, 24-27, 29-31 and 39-44 and 46-47. Similarly, the rejection of under 35 U.S.C. §103(a) does not identify claim 29. Thus, we shall consider claim 29 to be allowable except for the outstanding §112 rejection.

Herein, claims 1, 4, 12, 21 and 39 have been amended. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected claims 1-11 and 21-47 under 35 U.S.C. §112, second paragraph. Herein, Applicant has revised independent claims 1, 21 and 39. Applicant respectfully requests that the Examiner withdraw the outstanding §112 rejection.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-9, 11-15, 17-25, 30, 31, 39-44 and 46-47 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,938,164 issued to England et al. (England '164) in view of Bruce Schneier's "Applied Cryptography, Second Edition" (Schneier), and further in view of U.S. Patent No. 7,036,023 issued to Fries ("Fries"). Furthermore, claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over England '164 in view of Tetrault's "ATPM – Review: Virtual PC 4.0 (Tetrault) and claims 16 and 26-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over England '164 in view of U.S. Patent No. 6,330,670 (England '670). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See MPEP §2143*. Applicant respectfully submits that none of the cited references, most notably England '164, describes or suggests the limitations alleged in the Office Action.

Furthermore, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated: “Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined.” *See MPEP 2141*. In *KSR International Co. vs. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” The Court further required that an explicit analysis for this reason must be made. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR 127 S.Ct.* at 1741, quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). In the instant case, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed, and thus no *prima facie* case of obviousness has been established.

Applicant respectfully submits that the Examiner reconsider the allowability of the claims based on the lack of teaching of intercommunications between the processors regarding the presence or absence of the halted state prior to the loading of the content (data) as claimed.

None of the cited references, either alone or in combination, describes or suggests each and every limitation set forth in pending independent claims 1, 12, 21 and 39.

Therefore, Applicant respectfully requests the Examiner to withdraw the outstanding §103 rejection as applied to claims 1, 12, 21 and 39 as well as those claims dependent thereon. Applicant respectfully requests the Examiner to contact the undersigned attorney if, after his review, there are still questions regarding patentability. Such discussions will greatly facilitate the prosecution of this case. The undersigned attorney can be reached at the telephone number listed below.

Furthermore, claim 10 under 35 U.S.C. §103(a) as being unpatentable over England '164 combination as applied above, and further in view of ATPM – Review: Virtual PC 4.0 (April 2001), by Gregory Tetrault (“Tetrault”); and claims 16, 26, and 27 under 35 U.S.C. §103(a) as being unpatentable over England '164 combination as applied above, and further in view of U.S. Patent No. 6,330,670 issued to England et al. (“England”). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness. However, given that these claims are dependent on claims which are considered by Applicant to be in condition for allowance, no discussion regarding the allowability of these claims is necessary.

Withdrawal of the outstanding §103(a) rejections as applied to claims 10, 16 and 26-27 is respectfully requested.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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By / William W. Schaal/

William W. Schaal

Reg. No. 39,018

Tel.: (714) 557-3800 (Pacific Coast)

1279 Oakmead Parkway
Sunnyvale, California 94085-4040